

May 20, 2009

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUITElisabeth A. Shumaker
Clerk of Court

SIALA IPUTI, a/k/a Siala Lui,

Petitioner,

v.

ERIC H. HOLDER, JR., United States
Attorney General,

Respondent.

No. 09-9501
(BIA-1:A78 197 876)

ORDER

Before **TACHA, BRISCOE**, and **TYMKOVICH**, Circuit Judges.

Petitioner Siala Iputi challenges a January 31, 2008 Decision of the Board of Immigration Appeals (“Board”) denying his motion to reopen. We dismiss the petition for review for lack of jurisdiction.

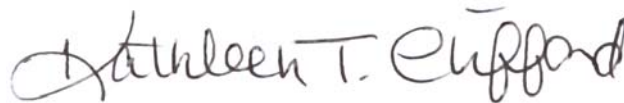
Pursuant to 8 U.S.C. § 1252(b)(1), the thirty-day deadline for filing a timely petition for review in this case expired on Monday, March 3, 2008. Section 1252(b)(1) clearly states that a petition for review must be “filed” within thirty days “after the date of the final order of removal, not thirty days after *service* of that order upon the parties.” *Nahatchevska v. Ashcroft*, 317 F.3d 1226, 1227 (10th Cir. 2003) (*per curiam*) (emphasis in original). The petition for review in this case was received and filed in this court on January 6, 2009, which

was approximately ten months past the thirty-day filing deadline.

The “filing of a timely petition for review is mandatory and jurisdictional and is not subject to equitable tolling.” *Nahatchevska*, 317 F.3d at 1227 (quoting *Stone v. I.N.S.*, 514 U.S. 386, 405 (1995)). Siala Impute’s petition for review is untimely. If Petitioner believes the Board did not properly serve its January 31, 2008 Decision, Petitioner may consider filing a motion to reissue the decision with the Board along with supporting affidavits of non-receipt. *See Singh v. Gonzales*, 494 F.3d 1170, 1172-73 (9th Cir. 2007).

Respondent’s motion to dismiss is **GRANTED**. The petition for review is **DISMISSED**. The mandate shall issue forthwith.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, reading "Kathleen T. Clifford". The signature is fluid and cursive, with the first name "Kathleen" being more prominent and the last name "Clifford" following in a similar style.

Kathleen T. Clifford
Attorney - Deputy Clerk